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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 17 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of) FCC 94-61
)
Implementation of Section 309 (j)) PP Docket No. 93-253
of the Communications Act -)
Competitive Bidding)

To: The Commission

**REPLY TO COMMENT FILED IN OPPOSITION
TO PETITION FOR RECONSIDERATION**

The Rural Cellular Association ("RCA"), by its attorneys, and pursuant to Section 1.429(g) of the Commission's Rules hereby replies to the "Comment on Petitions for Reconsideration" ("Comment") filed by BET Holdings, Inc. ("BHI") as it concerns the definition of a rural telephone company in the Commission's "Second Report and Order" in Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, 59 Fed. Reg. 22,980 (1994) ("Second R&O"). In addition, the RCA comments on the impact of a recent Commission action on this proceeding.

In its Second R&O, the Commission adopted Rule Section 1.2110(b)(3) which defines a rural telephone company for purposes of eligibility for designated entity status as a company that is independently owned and operated, has 50,000 or fewer access lines and serves communities with less than 10,000 in population.¹ In its Petition for Reconsideration of the Second R&O, the RCA urged the Commission to modify the definition of rural telephone company

¹ See 47 C.F.R. 1.2110(b)(3).

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to include rural telephone companies that have 50,000 or fewer access lines or serve communities of 10,000 or fewer in population.² BHI supports retention of the Commission's original definition. BHI Comment at p. 2. BHI believes that adoption of the RCA definition will allow large Local Exchange Carriers (LECs) that happen to serve rural areas to qualify as a designated entity in contravention of the Congressional intent. See BHI Comment at p. 3. This concern is misplaced. Section 1.2110(b)(3) of the Commission's Rules also provides that a rural telephone company must be an independently owned and operated local exchange carrier in order to fall within the definition of rural telephone company. The large LECs that BHI is concerned with are not independently owned and operated, and would not therefore qualify under the definition of a rural telephone company. Accordingly, there is no basis for BHI's concern that large LECs will be able to obtain designated entity status.

In light of the Commission's recently announced decision concerning the competitive bidding rules for Personal Communications Services ("PCS"), RCA's Petition for Reconsideration may be moot. In its "Memorandum Opinion and Order" in Amendment of the Commission's Rules to Establish New Personal Communications Services, Gen. Docket 90-314 (released June 13, 1994) ("MO&O") the Commission stated that it would provide "further guidance as to what constitutes a small business, rural telephone company and a

² See Petition for Reconsideration of the Rural Cellular Association filed June 3, 1994 at pp. 5-7.

business owned by a member of a minority group or a woman for purposes of 47 U.S.C. § 309(j) in PP Docket No. 93-253."³ In its public meeting held June 29, 1994, regarding the competitive bidding rules for PCS, the Commission announced that the definition for rural telephone company had been changed to include those rural telephone companies that had 100,000 access lines or fewer. It is not clear whether the definition is being changed specifically for the PCS auction rules or if the definition is being changed generally for all spectrum auctions. In the event that the Commission modifies Rule Section 1.2110(b)(3) to include rural telephone companies with 100,000 access lines or fewer, the RCA will dismiss its petition for reconsideration in the above-captioned proceeding since this modification will include those rural telephone companies that meet either criteria proposed by the RCA. Accordingly, the RCA supports adoption of this modification. If, however, the definition is only being changed with respect to the broadband PCS auction rules, then the concerns that prompted RCA's Petition remain, and RCA will continue to prosecute its Petition.

³ MO&O at para. 125, footnote 196.

For the foregoing reasons, the RCA respectfully requests the Commission to disregard BHI's Comment and modify Rule Section 1.2110(b)(3) to define rural telephone companies as those LECs serving 100,000 access lines or fewer. In the alternative, the RCA continues to support a definition of rural telephone company that includes rural telephone companies that have 50,000 or fewer access lines or serve communities of 10,000 or fewer in population.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Caressa D. Bennet, certify that on July 11, 1994, I caused a copy of the foregoing "Reply to Comment Filed in Opposition to Petitions for Reconsideration" to be served by first-class mail, postage prepaid to the following:

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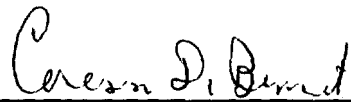
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